

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3936 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MOHAN AUTO SERVICE

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner

MS PS PARMAR for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/06/97

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly, in the third round, but non put appearance on behalf of the petitioner. Perused the Special Civil Application and heard the learned counsel for the respondents.

2. The petitioner, a proprietary firm through its proprietor, Mr. Mohanlal Shivram Dopa, filed this

Special Civil Application before this Court and prayer has been made for issuing a writ of certiorari or a writ in the nature of certiorari or a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction quashing and setting aside the orders Annexures 'C' & 'D'. Further prayers have been made for the directions to the respondent to supply the petrol and diesel to the petitioner. By amending the writ petition, a further prayer has been made for quashing and setting aside of the order dated 10-11-1983 annexure 'L'.

3. Under the order annexure 'C' dated 28th February, 1983, the Additional Collector and Food & Civil Supplies Controller, Ahmedabad, ordered for confiscation of the stock of 13,583 litres of diesel seized from the petitioner. This order has been made in exercise of the powers as conferred upon the said authority under sec.6A of the Essential Commodities Act, 1955. Annexure 'D' is the order of the Government in appeal which has been filed by the petitioner against the aforesaid order. This order has been passed as the stock of the petitioner was found to be adulterated/containing mixture. Under annexure 'D', the order of the Dy. Secretary of the Government dated 30th July, 1983, the appeal filed by the appellant against the aforesaid order has been dismissed and the said order has been upheld. The petitioner was having his retail outlet dealership of petrol, diesel and other petroleum products, Opposite Rambaug Police Station, Maninagar, Ahmedabad. It was the complaint against the petitioner that in the late night of 30th March, 1982 some liquid type kerosene is being mixed in the petrol tank of the petrol pump. On this complaint received, the inspecting team of the office of the Controller, Food & Civil Supplies, had carried out inspection in the presence of panchas and the following irregularities were found thereon.

- (1) Upon taking into custody in presence of the panchas, the Stock Register has not been written from 29th March, 1982 onwards till the inspection.
- (2) The Stock Register was not duly signed and stamped.
- (3) Two bill books of Petrol and Diesel sales have been seized in presence of the panchas wherein 295.7 litres sale of diesel from 29-3-1982 to 30-3-1982 i.e. till the time of inspection and 498 litres of petrol sale have

taken place and upon comparing the same with the balance available stock, the difference has been observed as mentioned in the order.

- (4) The rate list board indicating opening stock etc. had not been placed so that the customers can see it.
- (5) Samples of Petrol and Diesel had been obtained and got sealed in presence of the panchas. Upon getting these samples tested/analysed through the Examining Officer of the Gujarat Forensic Science Laboratory, adulteration has been observed/reported into the sample of Petrol. Hence, adulteration/mixing has been found in the seized 9050 litres of Petrol whereas no adulteration/mixing has been found in the sample of Diesel.
- (6) At the time of inspection, liquid known as D.W.F. contained in 20 barrels (total 4000 litres) had been found at the petrol pump. The said stock had been manufactured in your factory at Vatva and brought at your petrol pump. The sale price of said liquid is Rs.2-75 per litres whereas rate of petrol is Rs.6-31. Thus, adulteration has been found in Sl.No.5 hereinabove and taking into consideration the fact in the replies of your employees recorded, it has been confirmed that D.W.F. liquid had been mixed the petrol and looking to the same it is revealed that profit of Rs.3-51 per litres is being earned.
- (7) At the time of inspection, 13583 litres stock of Diesel had been seized. It is necessary to obtain/possess a due licence for selling the Diesel, but even then you have carried out business of Diesel without holding due licence.

4. Both the authorities concurrently decided the matter against the petitioner. Having gone through the orders of both the authorities, I do not find that those authorities have committed any illegality, which calls for interference of this Court. Both the authorities have considered whatever defence had been taken by the petitioner and examined them in detail. The speaking orders have also been passed.

5. This petition is filed by the petitioner under Article 227 of the Constitution. It is a fact that under

the Essential Commodities Act, 1955, the orders made by the competent authorities in the appeal have not been made appealable or revisable to this Court. Non-providing of the appeal or revision against the orders passed by the appellate authority under the aforesaid Act gives out that the legislature intended to give the finality to these orders. The Essential Commodities Act, 1955, is a special legislation enacted for the purpose of dealing with the black-marketing, adulteration etc. of the essential commodities. This Court sitting under Article 227 of the Constitution cannot assume unlimited prerogative to correct all species of hardships or wrong decisions. The powers under Article 227 of the Constitution must be restricted to cases of grave dereliction of duties and flagrant abuse of fundamental principles of law or justice where grave injustice would be done unless this Court interferes. Here is a case where the petitioner was found to be contravening the provisions of the order framed under the Act, 1955 as well as it is a serious case of adulteration of petroleum products.

6. After going through the judgment of both the authorities, it cannot be said that it is a case of grave dereliction of duties and flagrant abuse of fundamental principles of law or justice by both the authorities and more so, it is not the case where any injustice much less a grave injustice would be done to the petitioner unless this Court interferes.

7. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

zgs/-